

REMARKS

Claims 1-13 are pending. Claims 14-20 have been canceled. Claims 1 and 11 have been amended to clarify the present invention. No new matter has been added.

Double Patenting

Claims 1 and 11 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,721,834.

To obviate the obviousness-type double patenting rejection over claim 1 of U.S. Patent No. 6,721,834, Applicants submit a terminal disclaimer directed to U.S. Patent No. 6,721,834. In view of the above, Applicants respectfully request that the Examiner withdrawal this rejection.

First set of claim Rejections – 35 USC §103

Claims 1, 2, 4, 5, 11, 12 and 14-20 have been rejected under 35 USC 103(a) as being unpatentable over Reed (U.S. 4,939,731) in view of Kameda (U.S. 5,940,772).

In one embodiment of the present invention, FIG. 1 shows a flow chart of a method for transmitting data that includes (steps 110, 115, 120) determining a first data rate based on a measured first channel condition at a receiver to which data transmission is intended and transmitting data at the first data rate. At step 135, a second data rate is determined based on a received rate indication message from a receiver. The rate indication message can be either a channel condition measurement at the receiver or a

data rate based on a channel condition measurement at the receiver. At step 140, a second data transmission of the data at the second data rate is performed where the second data transmission is a re-transmission of the first data transmission.

Reed discloses a technique for transmitting data signals to receivers. If the data signals are received in error, a receiver transmits a request for retransmission of the data and a request for a change in data transmission rate. However, the requests transmitted by the receiver does not include an actual data rate indication. In contrast, in the present invention, the rate indication message can be either a channel condition measurement at the receiver or a data rate based on a channel condition measurement at the receiver. In sum, the data rate message of the present invention includes data rate information whereas, in Reed, the request for change in data rate does not contain any data rate information.

Kameda discloses a data transmission method that operates similar to Reed. In Kameda, the method monitors the number of repeat requests for data to adjust the data rate. Kameda does not transmit a data rate indication message as in the claimed invention.

Claim 1 has been amended to clearly avoid the cited references. In particular, claim 1 has been amended to recite a method that includes determining a second data rate based on a received rate indication message comprising either a channel condition measurement at a receiver or a data rate based on a channel condition measurement at a receiver and performing a second data transmission of the data at the second data rate, wherein the second data transmission is a re-transmission of the first data transmission.

Applicant respectfully submits that Reed and Kameda, alone or in combination, fail to teach or suggest the features of amended claim 1.

Claim 11 has been amended in a similar manner as claim 1 and should be allowable for at least the same reasons as claim 1. With regard to the remaining rejected dependent claims, it is believed that these claims are allowable at least due to their dependence upon an allowable independent claim.

Claims 1, 2, 4, 5, 11, 12 and 14-20 have been rejected under 35 USC 103(a) as being unpatentable over Reed in view of Corke (U.S. 6,414,938). For the reasons explained above, Reed fails to teach or suggest the claimed invention.

Applicants respectfully submit that Corke fails to teach or suggest independent claim 1 for at least the following reasons.

Corke discloses a technique for retransmitting a data packet at a rate that is different than at which the data packet was initially transmitted. The second data rate is based upon a multiple of the atomic packet size. Like Reed and Kameda, Corke does not transmit a rate indication message as in the claimed invention.

Thus, Reed and Corke, alone or in combination, fail to teach or suggest the claimed invention as recited in amended claim 1 for at least these reasons. Claim 11 has been amended in a similar manner as claim 1 and should be allowable for at least the same reasons as claim 1. With regard to the remaining rejected dependent claims, it is believed that these claims are allowable at least due to their dependence upon an allowable independent claim.

Claims 3 and 13 have been rejected under 35 USC 103(a) as being unpatentable over Reed in view of Kameda and in further view of Wang (U.S. 5,838,267). Claims 3

and 13 have been rejected under 35 USC 103(a) as being unpatentable over Reed in view of Corke and in further view of Wang. Claims 6-10 have been rejected under 35 USC 103(a) as being unpatentable over Reed in view of Kameda. Claims 6-10 have been rejected under 35 USC 103(a) as being unpatentable over Reed in view of Corke. With regard to these remaining rejected dependent claims, it is believed that these claims are allowable at least due to their dependence upon an allowable independent claim as explained above.

Request for Reconsideration pursuant to 37 CFR 1.111

Having responded to each and every ground for objection and rejection in the Office Action mailed on June 1, 2005, Applicant requests reconsideration in the instant application pursuant to 37 CFR 1.111 and requests that the Examiner allow claims 1-13 and pass the application to issue. Please charge any fee due to our Deposit Account No. 50-1561, and reference Attorney Docket No. 29633.047800. If there is any point requiring further attention prior to allowance, the Examiner is asked to contact Applicants' counsel who can be reached at the telephone number listed below.

Respectfully,

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